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**ORDINANCE NO. 3720**

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.10 ECC, CHAPTER 6.20 ECC, CHAPTER 6.30 ECC AND CHAPTER 20.110 ECDC; AMENDING THE CITY'S REGULATIONS GOVERNING PUBLIC NUISANCE ABATEMENT; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, the City currently addresses public nuisance abatement through various regulations codified throughout the Edmonds City Code and the Edmonds Community Development Code; and

WHEREAS, the City desires to update, overhaul and streamline its public nuisance regulations; and

WHEREAS, the amendments effected by this ordinance will serve the public interest by establishing a clear, uniform and efficient set of standards and procedures for designating and abating public nuisances; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals as findings in support of the code amendments effected by this ordinance. The Council further makes the following additional findings:

A. The code amendments contained in this ordinance are consistent with and will implement applicable policies of the Edmonds Comprehensive Plan.

B. The code amendments contained in this ordinance satisfy all applicable criteria for adoption.

C. The substantive provisions of this ordinance have been processed by the City in material compliance with all applicable procedures, including but not limited to public notice and the opportunity for public comment.

D. All applicable SEPA requirements have been satisfied with respect to the adoption of this ordinance.

E. The code amendments contained in this ordinance will protect, promote and benefit the public health, safety and welfare.

Section 2. Amendment of ECC 6.10.020. Section 6.10.020 of the Edmonds City Code is hereby amended to provide in its entirety as follows:

**6.10.020 General duties.**

The health officer of the City of Edmonds shall look after and superintend all matters pertaining to the health of the city.

Section 3. Repealer — ECC 6.10.030. Section 6.10.030 of the Edmonds City Code is hereby repealed in its entirety.

Section 4. Repeal and Reenactment — Chapter 6.20 ECC. Chapter 6.20 of the Edmonds City Code is hereby repealed in its entirety and reenacted as provided in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 5. Amendment of ECC 6.30.040. Section 6.30.040 of the Edmonds City Code is hereby amended to provide in its entirety as follows:

**6.30.040 Refusal or failure to abate; penalties.**

If the owner, lessee, occupant, agent or other person in charge of property on which noxious weeds, thistles or nettles exist fails or refuses to destroy the same within the time set forth in the notice,

said person shall be subject to the penalties and remedies for public nuisances set forth in Chapter 6.20 ECC.

Section 6. Repealer — ECC 6.30.050. Section 6.30.050 of the Edmonds City Code is hereby repealed in its entirety.

Section 7. Amendment of ECDC 20.110.010. Section 20.110.010 of the Edmonds Community Development Code is hereby amended to provide in its entirety as follows:

**20.110.010 Purpose.**

The purpose of this chapter is to establish an efficient system of enforcing the Edmonds Community Development Code and such other city regulations as may adopt the procedures set forth herein by reference; to provide an opportunity for a prompt hearing and decision regarding alleged violations; to establish monetary penalties; and to provide for abatement of uncorrected violations. This chapter shall coordinate with Chapter 6.20 ECC, Chapter 8.50 ECC and such other code provisions as may expressly or by implication utilize the enforcement procedures set forth herein.

Section 8. Amendment of ECDC 20.110.020. Section 20.110.020 of the Edmonds Community Development Code is hereby amended to provide in its entirety as follows:

**20.110.020 Definition section.**

- A. "City" means the city of Edmonds, Washington.
- B. "Civil violation" means a violation of a provision of the Edmonds Community Development Code for which a monetary penalty may be imposed under this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.
- C. "Person" means any natural person, any corporation, or any unincorporated association or partnership.

Section 9. Repealer — ECDC 20.110.030. Section 20.110.030 of the Edmonds Community Development Code is hereby repealed in its entirety.

Section 10. Repealer — ECDC 20.110.050. Section 20.110.050 of the Edmonds Community Development Code is hereby repealed in its entirety.

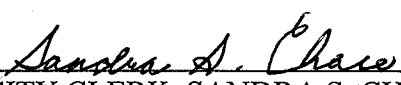
Section 11. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 12. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

  
MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

  
CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	12/12/2008
PASSED BY THE CITY COUNCIL:	12/16/2008
PUBLISHED:	01/05/2009
EFFECTIVE DATE:	01/10/2009
ORDINANCE NO. <u>3720</u>	

## SUMMARY OF ORDINANCE NO. 3720

of the City of Edmonds, Washington

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On the 16th day of December, 2008, the City Council of the City of Edmonds, passed Ordinance No. 3720. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.10 ECC, CHAPTER 6.20 ECC, CHAPTER 6.30 ECC AND CHAPTER 20.110 ECDC; AMENDING THE CITY'S REGULATIONS GOVERNING PUBLIC NUISANCE ABATEMENT; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 17th day of December, 2008.

  
CITY CLERK, SANDRA S. CHASE

# **Exhibit A**

## **Chapter 6.20**

### **PUBLIC NUISANCES**

#### **Sections:**

- 6.20.010 Purpose.**
- 6.20.020 Definitions.**
- 6.20.030 Public nuisances prohibited.**
- 6.20.040 Types of nuisances.**
- 6.20.041 Aesthetic nuisances.**
- 6.20.042 Health and safety nuisances.**
- 6.20.043 Protective coverings.**
- 6.20.050 Enforcement and abatement.**
- 6.20.060 Separate abatement proceedings for junk vehicles.**

#### **6.20.010 Purpose.**

The purpose of this chapter is to protect and serve the public health, safety and welfare by deterring and preventing conditions which constitute a public nuisances, and providing for the prompt, efficient and permanent abatement of public nuisances. It is also the purpose of this chapter to ensure that the persons responsible for creating, maintaining and/or allowing such nuisances bear the costs of any necessary enforcement and abatement action to fullest extent legally permissible. The provisions of this chapter shall be reasonably construed in furtherance of these purposes.

#### **6.20.020 Definitions.**

The following definitions shall apply for purposes of this chapter:

A. "Antique vehicle" means a vehicle that is at least 40 years old and as qualified pursuant to WAC 308-96A-073.

B. "Driveway" means an improved surface per City engineering standards designed and used for accessing a parking area and/or for vehicle parking.

C. "Emergency" means a situation in which the community services director reasonably determines that immediate abatement or other action is necessary in order to prevent, reduce or eliminate an immediate threat to health, safety or property.

D. "Front yard" means a space on the same lot as a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. In the case of a double frontage lot, both spaces with street frontage shall be considered front yards.

E. "Junk vehicle" means a vehicle meeting any two of the following criteria:

1. Is extensively damaged, including but not limited to any of the following conditions: a broken or missing windshield or missing wheels, tires, motor or transmission;
2. Is apparently inoperable;
3. Is without valid current registration plates.
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

F. "Inoperable" with respect to a vehicle means that the vehicle is incapable of being legally operated on a public roadway due to the condition of the vehicle or the status of the ownership, registration, or license of the vehicle.

G. "Junk" means discarded, broken or disabled material including but not limited to household items, house or lawn furniture, appliances, toys, construction items, hot tubs, trampolines, vehicle parts, or other items that are not neatly stored or in a functioning condition.

H. "Litter" means discarded waste materials, including but not limited to paper, wrappings, packaging material and discarded or used containers.

I. "Motor vehicle" means a vehicle that is self-propelled but not operated upon rails, and includes neighborhood electric vehicles as defined in RCW 46.04.357. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle.

J. "Operable" with respect to a vehicle means that the vehicle is a licensed motorized or non-motorized vehicle which in its current condition is legally and physically capable of being operated on a public roadway.

H. "Rear yard" means a space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

I. "Salvage" means an item that would otherwise be destroyed, rejected or discarded but is or may be recycled or put to further use.

J. "Side yard" means a space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

K. "Stagnant" means water or liquid that has become foul, stale or impure through lack of agitation, flow or movement.

L. "Trash" means waste food products and other household garbage.

M. "Vehicle" means any motorized or non-motorized conveyance that includes, but is not limited to, an automobile, recreational vehicle, truck, any type of trailer, van, motorcycle, watercraft, farm equipment, construction equipment and antique vehicles (i.e., cars, trucks, vans, motorcycles, carriages, or motorized buggies).

#### **6.20.040 Types of nuisances.**

The actions and/or conditions enumerated as public nuisances pursuant to Chapter 7.48 RCW are hereby designated as public nuisances for purposes of this chapter. Each of the actions and conditions enumerated in 6.20.041 and 6.20.042 are additionally designated as public nuisances for enforcement under the provisions of this chapter.

#### **6.20.041 Aesthetic nuisances.**

The following nuisances are aesthetic in nature and can negatively impact neighborhood property values and foster blight. The following actions and/or conditions shall be a public nuisance when located in any front, side or rear yard or vacant lot.

- A. Any junk, trash, or litter,
- B. Salvage materials or lumber not neatly stacked.
- C. Any broken, soiled or discarded furniture, household equipment or furnishings.
- D. Any vehicle parts or other articles of personal property which are stored, discarded or left in a state of partial construction or repair.
- E. Any accumulation, stack or pile of building, landscaping or construction materials which are exposed to the elements or are in disarray and which are not directly associated with a project on the premises for which a current building permit has been obtained; or, with respect to a project which does not require a permit, that is in progress or which is scheduled to begin within ten (10) business days. Construction materials include but are not limited to metal, wood, wire, drywall, electrical components, and any supplies, equipment or other items utilized for painting, landscaping, logging, roofing, masonry or plumbing.
- F. Any shopping carts, except where such shopping carts are owned and/or utilized for their designated purpose upon the underling premises.
- G. Exceptions. The nuisances enumerated in subparagraphs A through D shall not apply to items or materials when:
  - 1. Wholly enclosed within a building; or
  - 2. Located in a rear yard and screened from adjacent properties and the public right of way by a six-foot opaque fence or by a vegetative barrier that is between six feet and eight



feet in height and provides a visual barrier equivalent to an opaque fence. Corner lots which have no rear yard may establish a screening area which qualifies for this exception in a side yard.

#### **6.20.042 Health and safety nuisances.**

The following actions or conditions have a direct impact on public health and are declared to be public nuisances.

A. Vegetation. The following actions and/or conditions shall be public nuisances:

1. Any dead, dying or other hazardous tree which is in danger of falling and endangers the traveling public on a street, alley, sidewalk or other public right of way. The word "tree" shall have the same meaning as is provided in ECDC 18.45.040.

2. Any violation of the noxious weed provisions of Chapter 6.30 ECC and/or any uncultivated berry vines and Class B or Class C noxious weeds (as classified by the Washington State Noxious Weed Control Board) which exceed an average of three feet in height and any portion of which are located within five feet of an adjacent property.

B. Attractive nuisances. Any attractive nuisances dangerous to children are declared to be public nuisances, including but not limited to the following items when located outside of a fully enclosed building:

1. Abandoned, broken or neglected equipment;
2. Jagged, sharp or otherwise potentially dangerous machinery;
3. Household or commercial appliances, including but not limited to refrigerators, freezers, washers, dryers, dishwashers, ovens, hot water tanks, or toilets;
4. Unpermitted excavations; and or
5. Unprotected or open wells or shafts.

C. Breeding grounds for vermin or insects. The following actions and/or conditions are public nuisances:

1. Any accumulations of perishable matter, including but not limited to food stuffs, that may harbor or attract the infestation of mold, insects and/or vermin, provided, however that this provision shall not apply to compost heaps or facilities which are maintained in accordance with standards recommended by the US Composting Council.

2. Any stagnant, pooled water in which mosquitoes, flies or other insects may reproduce.

3. Any stacks or accumulations of newspapers, cardboard, or other paper, cloth, plastic, or rubber left or stored in a manner which poses a substantial risk of combustion, a threat of fire, or that may harbor, serve as an attraction for or promote the infestation of mold, insects and/or vermin.

D. Hazardous conditions, substances or materials. The following conditions or actions are declared to be public nuisances.

1. Any structure or other constructed object not governed by the International Building Code that is decayed, damaged, or in disrepair and poses a substantial threat of collapse, structural failure of falling.

2. Any unstable embankment, fill or other accumulation of rock and/or soil which poses a substantial threat of collapse.

3. Any storage or keeping of any toxic, flammable, or caustic substance or material except in compliance with applicable requirements of state or federal law.

4. Any unpermitted obstruction of any street, alley, crossing or sidewalk, and any unpermitted excavation therein or thereunder.

**6.20.043 Protective coverings.**

Except as otherwise expressly provided by applicable city ordinance or a valid regulatory permit, any condition enumerated in ECC 6.20.040 shall constitute a public nuisance irrespective of whether such condition is covered in whole or in part by a tarpaulin, vapor barrier, canvas or plastic sheeting, or other temporary covering.

**6.20.050 Enforcement and abatement.**

A. Responsibility for enforcement. The provisions of this chapter shall be enforced by the community services director or his/her designee.

B. Responsibility for violation. The provisions of this chapter shall be enforceable against any person who causes, permits, creates, maintains or allows upon any premises, any of the actions or conditions designated as public nuisances under ECC 6.20.040, including but not limited to any person or entity owning, leasing, renting, occupying, or possessing the underlying premises.

C. Penalties. Any person violating this chapter shall be subject to civil enforcement proceedings pursuant to Chapter 20.110 ECDC and/or criminal misdemeanor prosecution.

D. Abatement. The City may seek a warrant of abatement from Snohomish County Superior Court authorizing City personnel and/or contractors to enter any premises containing a public nuisance and abate said nuisance at the violator's expense. Prior to obtaining such a warrant, the City shall provide written notice to the responsible party by posting upon the subject premises, mailing and/or personal delivery. Such notice may be combined with a Notice of Civil Violation issued pursuant to Chapter 20.110 ECDC, and shall contain: (1) a description of the public nuisance; (2) a reasonable deadline by which the responsible party must eliminate the public nuisance; (3) a warning that the City may abate the nuisance at the responsible party's expense; and (4) a statement that the notice shall become a final order of the City if not appealed.

to the hearing examiner within the time period specified in Chapter 20.110 ECDC. All costs incurred by the City in abating a public nuisance, including but not limited to attorneys' fees, staff time and contractor expenses, shall be recovered from the responsible party. Abatement may be exercised concurrently with or alternatively to the imposition of civil and/or criminal penalties pursuant to subsection (C) of this section.

E. **Summary Abatement.** Notwithstanding any other provision of this chapter, the City may, to the fullest extent legally permissible, summarily abate and/or take any action necessary to eliminate any condition constituting an immediate threat to public health or safety.

F. **Mediation.** Notwithstanding any provision of this code, when the Development Services Director determines, in his discretion, that significant risk to any person exists and the best interests of the neighborhood would be better served. The Director may decline to proceed with prosecution or abatement until the complainant(s) and alleged violator(s) have attempted to resolve their conflict through mediation.

G. **Frivolous Complaint.** Any person making a frivolous complaint under the provisions of this chapter shall be guilty of a civil infraction punishable by a fine of not more than five hundred dollars (\$500).

#### **6.20.060 Separate abatement proceedings for junk vehicles.**

A. **Statutes Adopted by Reference.**

1. RCW 46.55.010(2), (3), (4), (6), (7), (8), (9), (10), (11) and (12) only;
2. RCW 46.55.070, Posting requirements – Exception;
3. RCW 46.55.090, Storage, return requirements – Personal belongings – Combination endorsement for tow truck drivers – Authority to view impounded vehicle;
4. RCW 46.55.100, Impound notice – Abandoned vehicle;
5. RCW 46.55.110, Notice to legal and registered owners;
6. RCW 46.55.120, Redemption of vehicle – Sale of unredeemed vehicles;
7. RCW 46.55.130, Notice requirements public auction accumulation of storage charges;
8. RCW 46.55.140, Operator's lien, deficiency claim, liability; and
9. RCW 46.55.230, Junk vehicles – Certification, notification, removal, sale.

C. **Administrative Hearing Officer.** All abatement hearings required under this section shall be conducted by the hearing examiner. A decision made by the hearing examiner under this section regarding abatement shall be final as to abatement. Any abatement hearing under this section shall be considered a separate matter from any hearing regarding the underlying violation outlined in the previous sections of this chapter. Provided, however, that the hearing examiner may in his/her discretion combine such hearings if two separate rulings are issued.

D. **Abatement and Removal of Unauthorized Junk Motor Vehicles or Parts Thereof from Private Property.**

1. The storage or retention of an unauthorized junk motor vehicle or parts thereof, as defined herein, on private property is hereby declared a public nuisance subject to removal and impoundment. The community services director shall inspect and investigate complaints relative to unauthorized junk motor vehicles, or parts thereof on private property. Upon discovery of such nuisance, the community services director shall give notice in writing to the last registered owner of record if identifiable and the property owner, of the violation of the nuisance provisions and demand that both abate the nuisance or the vehicle will be removed and costs will be assessed against them. The notice shall also inform both that a hearing before the hearing examiner may be requested in writing, directed to the city clerk within 10 days of said notice, and that if no hearing is requested within 10 days, the vehicle will be removed at their expense.

2. If a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or parts thereof as a public nuisance shall be mailed, by certified mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that the identification numbers are not available to determine ownership.

3. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with reasons for the denial and that she/he has not given consent for the vehicle to be located there. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that she/he has not subsequently acquiesced in its presence, then the hearing examiner shall not assess costs of administration or removal of the vehicle against the owner of the property upon which the vehicle is located or otherwise order recoupment of such costs from the owner of the property.

4. Costs of removal of vehicles or parts thereof under this section shall be assessed against the last registered owner of the vehicle or automobile hulk if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle or automobile hulk complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored, unless the property owner establishes the facts set forth subsection 3 of this section.

5. This section shall not apply to:

a. A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

b. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is screened according to RCW 46.80.130.

6. After notice has been given of the city's intent to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or parts thereof shall be removed at the request of the community services director and disposed of to a licensed motor vehicle wrecker or hulk hauler with written notice being provided to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked or otherwise lawfully disposed of.

E. Owner of Record Presumed Liable for Costs when Vehicle Abandoned – Exceptions.

1. The abandonment of any junk vehicle or hulk shall constitute a prima facie presumption that the last owner of record is responsible for such junk vehicle and thus liable for any costs incurred in removing, storing and disposing of said vehicle.

2. A registered owner transferring a vehicle shall be relieved from personal liability under this chapter if within five days of the transfer she/he transmits to the planning division a seller's report of sale on a form prescribed by the planning manager to show that the vehicle had been transferred prior to the date notice was given to him/her of the need to abate.

F. Owner or Agent Required to Pay Charges – Lien.

1. Any costs incurred in the removal and storage of an impounded shall be a lien upon the vehicle. All towing and storage charges on such vehicle impounded shall be paid by the owner or his/her agent if the vehicle is redeemed. In the case of abandoned vehicles, all costs of removal and storage shall be paid by the owner or his/her agent if the vehicle is redeemed, but if not redeemed, such costs shall be received from the proceeds of sale.

2. Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued to the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom.

G. Written Impound Authorization Form. Whenever the community services director impounds a vehicle pursuant to the provisions of this chapter, the director shall complete an authorization form approved by the chief of police which specifies the section of this chapter or Chapter 46.55 RCW authorizing the impound. In the alternative, a law enforcement notice of infraction or citation for an offense which authorized the impound may be substituted at the director's discretion.